

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

**SHEIKH OMAR ABDUL RAHMAN and
DAVID ROTHROCK,**

Plaintiffs,

v.

**CIVIL ACTION NO.: 3:14-CV-65
(JUDGE GROH)**

AHMED ABU KHATALLAH,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the report and recommendation of United States Magistrate Judge Robert W. Trumble. Pursuant to Rule 2 of the Local Rules of Prisoner Litigation Procedure, this action was referred to Magistrate Judge Trumble for submission of a proposed report and recommendation. On August 25, 2014, Magistrate Judge Trumble entered his report and recommendation. ECF 9. In that filing, he recommended that this Court dismiss Plaintiffs' Complaint pursuant to 28 U.S.C. § 1915A because it is frivolous and malicious.

Pursuant to 28 U.S.C. § 636(b)(1)(c), this Court is required to make a *de novo* review of those portions of the magistrate judge's findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. Thomas v. Arn, 474 U.S. 140, 150

(1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and Plaintiff's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984).

In this case, objections to Magistrate Judge Trumble's report and recommendation were due within fourteen days after being served with a copy of the report and recommendation pursuant to 28 U.S.C. § 636(b)(1) and Rule 72(b) of the Federal Rules of Civil Procedure. Plaintiff was served with the report and recommendation on August 28, 2014. To date, the parties have not filed any objections. Accordingly, this Court will review the report and recommendation for clear error.

On June 23, 2014, the *pro se* Plaintiff, David Rothrock, filed a Complaint pursuant to 42 U.S.C. § 1983. On the same date, the Clerk of Court filed a Notice of Deficient Pleading and directed Plaintiff to file his Complaint on a court-approved form. The Clerk also directed Plaintiff to either pay the \$400 filing fee or file an application to proceed *in forma pauperis*, a signed Consent to Collection form, and a copy of his Prison Trust Account with its ledger sheets so that the Court could properly assess his ability to proceed as a pauper. Plaintiff was advised that he had twenty-one days to comply or his case may be dismissed. Magistrate Judge Trumble found that at the time of his report and recommendation, entered on August 25, 2014, almost eight weeks had passed since the date on which Plaintiff was first directed to correct his deficiencies. Plaintiff received service of the documents on June 30, 2014. However, Plaintiff has never responded or requested an extension of time to comply with the notice of deficient pleading.

On July 23, 2014, Magistrate Judge Trumble issued a Show Cause Order advising Plaintiff that he had fourteen days to show cause why his case should not be dismissed for failure to prosecute. Plaintiff was also advised that failure to show cause could result in the dismissal of his case. Plaintiff received service of the Show Cause Order on July 25, 2014. However, Plaintiff has not responded. Magistrate Judge Trumble found that Plaintiff has failed to file his complaint on the court-approved form, failed to either pay his filing fee or file an application to proceed *in forma pauperis*, and has failed to show cause.

Additionally, Magistrate Judge Trumble noted that Plaintiff Rothrock should receive a pre-filing injunction to prevent him from continuing to file harassing lawsuits. Magistrate Judge Trumble found that between April 7 through July 7, 2014, Plaintiff had filed eighteen cases in eleven different districts, thirteen of which had already been dismissed. Additionally, Magistrate Judge Trumble found that Plaintiff usually files in his name and that of another plaintiff, and he rarely lists himself as lead plaintiff. Generally, as found by Magistrate Judge Trumble in this case, Plaintiff picks another prisoner from his or another facility, or, sometimes, a public figure or entity that is prominent in the media to be a party. Magistrate Judge Trumble also found that Plaintiff often alleges “ludicrously bizarre, nonsense claims that are often lewd, sexual, and very vile. All of his claims are malicious.” Accordingly, Magistrate Judge Trumble found no objective basis for believing that Plaintiff could prevail in any of his claims, and he recommended that Plaintiff be “restricted from filing any other papers in this court unless and until he is incarcerated in a West Virginia penal facility or he is challenging a federal prosecution or a West Virginia criminal conviction.”


Upon careful review of the record, it is the opinion of this Court that Magistrate Judge Trumble did not clearly err and that the Report and Recommendation should be, and is, hereby **ORDERED ADOPTED** for the reasons more fully stated therein. Accordingly, the following is **ORDERED**:

1. Sheikh Omar Abdual Rahman is **DISMISSED**;
2. This case, pursuant to 28 U.S.C. § 1915A is **DISMISSED** because it is frivolous and malicious;
3. The Clerk of Court is **DIRECTED** to return, unfiled, any papers submitted in any future civil case by or on behalf of David Rothrock (except for a notice of appeal in this case or unless filed from a West Virginia penal facility or in a habeas corpus proceeding);
4. The Clerk of Court is **DIRECTED** to note on the docket of this case any attempted filings in violation of this Order; and
5. The Clerk of Court is **DIRECTED**, upon entry of the final Order in this case, to send a copy of this report and recommendation and a copy of the final Order to the warden of the Benner Township Prison in Pennsylvania, along with a copy of David Rothrock's filing, ECF 1.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to all counsel of record and to mail a copy to the *pro se* Plaintiff by certified mail, return receipt requested, to his last known address as shown on the docket sheet.

DATED: September 17, 2014



GINA M. GROH
UNITED STATES DISTRICT JUDGE